

**AFFIDAVIT**

I, Colin Simons, being first duly sworn, hereby depose and state as follows:

**INTRODUCTION AND AGENT BACKGROUND**

1. I am a Special Agent with the Federal Bureau of Investigation (FBI) currently assigned to the Burlington, Vermont Resident Agency of the Albany, New York Division. I have been a Special Agent for over 15 years. I am responsible for working cases involving a variety of criminal violations, to include violent crimes and gangs. I have also been the affiant to numerous federal complaints and search warrants pertaining to violent crime and drugs. As a Special Agent, I am authorized to investigate violations of laws of the United States and to execute warrants issued under the authority of the United States.

2. I submit this affidavit in support of an application for a search warrant for Black Mountain Inn, Room 211, 959 Putney Rd., Brattleboro, Vermont (SUBJECT LOCATION), described in detail in Attachment A. I believe probable cause exists to search the SUBJECT LOCATION for evidence relating to violations of the Controlled Substances Act, specifically possession with intent to distribute heroin and cocaine base, and distribution of cocaine base, in violation of 21 U.S.C. § 841. The items to be seized during the search are listed in Attachment B.

3. The information contained within this affidavit is based upon my training, experience, and investigation, as well as information that has been conveyed to me by other law enforcement officers. The following has been related to me by persons having direct knowledge of the events described below, including Drug Enforcement Administration (DEA) Special Agent (SA) Timothy Hoffmann, Vermont State Police Detective Sergeant Chris Lora, Vermont State Police Sergeant Ryan Wood, Brattleboro Police Department Officer Chad Emery, and other

law enforcement officers involved in this investigation. Since this affidavit is being submitted for the limited purpose of establishing probable cause, I have not included each and every fact known to me concerning this investigation.

4. For the reasons set forth in this affidavit, probable cause exists to believe that the distribution of controlled substances has occurred at the SUBJECT LOCATION; the SUBJECT LOCATION contains evidence of possession with intent to distribute, and distribution of controlled substances; the SUBJECT LOCATION contains contraband and fruits of these crimes; and that the SUBJECT LOCATION contains property designed for use, intended for use, or that has been used in committing these crimes.

#### **PROBABLE CAUSE**

5. In the early evening on April 9, 2019, law enforcement officers observed SOI#1<sup>1</sup> depart from the Black Mountain Inn, Room 118, 959 Putney Rd., in Brattleboro, Vermont. A traffic stop was conducted of SOI#1's vehicle due to multiple motor vehicle violations. DEA SA Timothy Hoffmann approached the vehicle, and engaged SOI#1 in conversation. SA Hoffmann asked SOI#1 whether SOI#1 possessed any controlled substances, and SOI#1 provided SA Hoffmann with a user-quantity of suspected cocaine base. SOI#1 agreed to be interviewed, and told Vermont State Police Detective Sergeant Lora and Detective Andrew Todd that s/he had

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<sup>1</sup> Law enforcement found a user amount of cocaine base on SOI#1, and no promises were made by law enforcement to SOI#1 as to whether or when s/he would be prosecuted. SOI#1 has the following criminal convictions: 2014 petty larceny; 2014 felony forgery; 2012 misdemeanor false info to law enforcement and resisting arrest; 2012 petty larceny; 2005 petty larceny; 2005 depressant stimulant narcotic; NH 2004 theft by unauthorized taking felony; 2004 misdemeanor criminal mischief; 2004 felony burglary; SOI#1 also has numerous convictions for violations of probation.

obtained the cocaine base earlier from “Cheech’s<sup>2</sup> Room” at the Black Mountain Inn. SOI#1 described the physical location of “Cheech’s Room,” and SOI#1’s description of the room’s location was consistent with the actual location of Room 211. SOI#1 stated that s/he had purchased the cocaine base from “Holly.” SOI#1 stated that during the purchase, s/he saw Holly with pre-bagged cocaine base, and observed the amount to be larger than a golf-ball.<sup>3</sup> SOI#1 identified Arthur Fisk and “Cheech” as also being in the room when s/he purchased the cocaine base.

6. During the interview of SOI#1, law enforcement continued surveillance of the Black Mountain Inn. Agents observed two men, later identified as Arthur Fisk and Jaylen Pryor, depart Room 211 of the Black Mountain Inn and drive away together in a vehicle. The two were observed going to a local store, and then returning to the vehicle. Shortly thereafter, Vermont State Police Sergeant Ryan Wood stopped the car for an expired inspection and defective tail light. Pryor provided written consent to search the vehicle. In plain view on the center console, officers noted white bags commonly used to package heroin. Officers located a plastic M&M tube, with crack pipe and 3 small rocks of crack, which Fisk admitted was his. Officers also located a crack pipe in the passenger-side door, and another white bag consistent with heroin packaging that was stamped “Superman 1.” Fisk was interviewed, and falsely claimed that he had been at the Staples when Pryor picked him up. Pryor was interviewed, and stated he was staying with Fisk at the Black Mountain Inn, and the room was under Fisk’s name.

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<sup>2</sup> Det. Lora informed me that he knows “Cheech” to be an alias for Jaylen Pryor from prior drug investigations.

<sup>3</sup> Based on my training and experience, I know a golf-ball sized amount of cocaine base to be a distribution quantity of cocaine base.

7. Later in the evening, law enforcement observed two people leave Room 211 of Black Mountain, and enter a white Mitsubishi. Brattleboro Police Department Officer Chad Emery stopped the white Mitsubishi for speeding. The passenger was identified as Holly Magnuson. During the stop, SA Hoffmann approached Magnuson, engaged her in conversation, and Magnuson subsequently surrendered three pieces of suspected cocaine base and 5 bags of suspected heroin. The surrendered heroin was stamped with "Superman 1." SA Hoffmann then engaged the driver, Lee Griffin, in conversation, and asked Griffin if he had any controlled substances. Griffin then turned over a crack pipe and a piece of foil containing cocaine base.

8. Brattleboro Police Department Officer Ryan Washburn contacted an employee of the Black Mountain Inn, and verified that Room 211 is currently rented by Arthur Fisk. DEA Agents subsequently made entry to Room 211 to secure it. No one was found in the room during the protective sweep.

9. Subsequent field-testing revealed that all the suspected heroin discussed above tested presumptively positive for heroin, and all the suspected cocaine base discussed above was presumptively positive for cocaine.

10. Arthur Fisk was cited and released for simple possession of cocaine. After he was processed and while he was being released, Fisk stated to VSP Sgt Wood that Pryor was dealing controlled substances out of the room, and there was likely something left in the room.

### **CONCLUSION**

11. Based on the above, I believe probable cause exists to search the SUBJECT LOCATION for evidence relating to violations of the Controlled Substances Act, specifically possession with intent to distribute cocaine base in violation of 21 U.S.C. § 841. Probable cause exists to believe evidence of possession with intent to distribute, and distribution of controlled

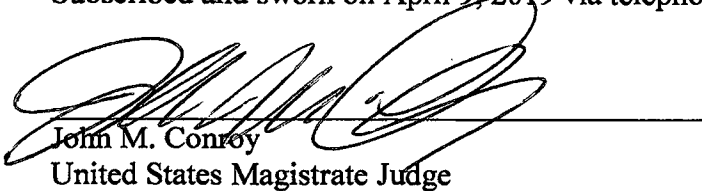
substances has occurred at the SUBJECT LOCATION; the SUBJECT LOCATION contains evidence of possession with intent to distribute, and distribution of controlled substances possession with intent to distribute controlled substances; the SUBJECT LOCATION contains contraband and fruits of these crimes; and that the SUBJECT LOCATION contains property designed for use, intended for use, or that has been used in committing these crimes.

Respectfully Submitted,



Colin Simons  
Special Agent  
Federal Bureau of Investigation

Subscribed and sworn on April 9, 2019 via telephonic means.



John M. Conroy  
United States Magistrate Judge

Attested to by S/A Colin  
Simons by reliable electronic  
means.

4/9/2019  
9:20pm



USMJ